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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,930	12/14/2000	Naomi Noda	WATK:205	5806
7590 02/20/2004				
PARKHURST & WENDEL, L.L.P. 1421 Prince Street, Suite 210 Alexandria, VA 22314-2805			EXAMINER HENDRICKSON, STUART L	
			ART UNIT 1754	PAPER NUMBER

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/735930

Applicant(s)

Noda

Examiner

Herbickson

Group Art Unit

1754

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 1/9/04
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-3, 5, 7-11 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3, 5, 7-11 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been:
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. The request for withdrawal of the FINALITY is granted. The amendment of 1/9/04 has been entered.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 5, 7, 8, 10 and 11 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Iizuka et al 5968870.

Iizuka teaches in column 4 impregnating a honeycomb with alumina, then with Na, Ti and Pt. No difference in the catalyst is seen; compare to specification examples.

Claims 1-3, 5, 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindner et al. taken with Deeba et al.

This is the same rejection made in paper mailed 9/16/03, incorporated herein by reference.


Applicant's arguments filed 1/9/04 have been fully considered but they are not persuasive.

The combination is proper because both references seek to remove NO_x. The comparative data alluded to is not persuasive as it is not a side by side comparison to the references applied. It is not necessary for the references to discuss- let alone solve-

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problems faced by applicant. See *In re Dillon* 16 USPQ 2d 1897. Rather, they must be consistent. Furthermore, the references *do* solve the problem faced by applicant: removing NO_x (see specification pg. 13). The specification does not clearly describe the addition of potassium directly to the carrier. The applicant interprets claim 1 line 4 as if the comma after 'metal' is absent. Perhaps then it should be removed. Claim 1 does not require a reaction between the carrier and the alkali metal, nor between the 'substance' and the alkali metal. The claims are more broad than what is argued- claim 1 does not require that the 'carrier' be different from the 'heat-resistant inorganic oxide'. Alumina by itself meets both properties, so the claims do not require a 4 component catalyst. Likewise, the 'noble metal' can itself be the 'catalyst layer'. The use of materials taught as 'optional' is well within the level of one of ordinary skill in the art. Deeba teaches a variety of arrangement of alkali and noble metals; each may be throughout the catalyst. Thus, the present structure is suggested.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.



Stuart Hendrickson
examiner Art Unit 1754